

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARCUS LEE MEADOWS,

Defendant-Appellant.

UNPUBLISHED

October 21, 2003

No. 239707

Muskegon Circuit Court

LC No. 01-046340-FH

Before: Griffin, P.J., and Neff and Murray, JJ.

PER CURIAM.

Defendant was convicted by a jury on two counts of assault on a corrections officer, in violation of MCL 750.197c. On appeal, defendant challenges the sufficiency of the evidence to support his convictions. We affirm.

Our test for determining the sufficiency of evidence in a criminal case is “whether the evidence, viewed in a light most favorable to the people, would warrant a reasonable juror in finding guilt beyond a reasonable doubt.” *People v Nowack*, 462 Mich 392, 399; 614 NW2d 78 (2000). We are required to draw all reasonable inferences and decide credibility in support of the jury verdict. *Id.* at 400.

At trial, the prosecution presented the testimony of six deputy employees of the Muskegon County Jail. All testified that on July 5, 2001, a disturbance transpired involving defendant. The deputies testified that defendant was threatening violence and directing vulgar insults toward them, in addition to continuously screaming and yelling obscenities. Five deputies arrived at defendant’s cell, at which point they tried to calm him down and implement disciplinary measures, which included having defendant hand over his bedding. Defendant refused and continued his behavior. Defendant then proceeded to remove his shirt to prepare for a fight and wrapped it around his head to protect himself from the oleoresin capicum, or OC (pepper spray in a foam form), used by the deputies. Additionally, defendant allegedly grabbed a small glass ear drop bottle and told the deputies to come in and get him.

The deputies ordered defendant to drop the object but defendant refused. Deputies Gilchrist, Harman, and Bonstell proceeded to enter defendant’s cell to gain control of him. However, defendant struck Deputy Gilchrist in the head-shoulder region, causing his OC canister to inadvertently discharge on himself. Gilchrist lost his balance and fell to the cell bunk. The other deputies immediately wrestled defendant out of his cell and on to the floor of the catwalk

area in front of the cells. While doing so, defendant elbowed Deputy Bonstell, fracturing two of his ribs. A sixth deputy witnessed the incident via surveillance video. Both deputies received treatment for their injuries; defendant was not injured during the incident.

In addition to the testimony presented, the prosecution introduced a surveillance video, which captured the incident in a continuous, two-second-delay feed. Defendant argues on appeal that the date on the video reads 1997 and that its introduction by the prosecution was part of a conspiracy to convict him of a crime committed years before. However, Deputy Gilchrist testified that the discrepancy in the date on the tape was due to a 2001 computer glitch. Defense counsel did not object to the video and also argued that the video shows defendant was not acting aggressively and was acting in self-defense.

Under MCL 750.197c, the prosecution must prove: 1) that defendant was confined at the Muskegon County Jail; 2) that he was lawfully confined there; 3) that defendant assaulted the employee; and 4) that at the time of the assault, defendant knew that the individuals were employees. CJI2d 13.15. Before trial, the parties stipulated to elements one and two. With regard to element four, Deputy Gilchrist testified that at the time of the incident, he was wearing his regular uniform. Additionally, the surveillance tape shows that each officer involved in the incident wore a uniform. Thus, a reasonable jury could have concluded that elements one, two, and four had been proven.

With regard to element three, the prosecution must prove beyond a reasonable doubt: 1) that the defendant either attempted to commit a battery or did an illegal act that caused reasonable fear of an immediate battery (a battery being a forceful, violent or offensive touching of the person or something closely connected with the person of another); 2) that the defendant intended either to commit a battery or to make the individual reasonably fear an immediate battery (an assault cannot happen by accident); and 3) that at the time, the defendant had the ability to commit the batteries, appeared to have the ability, or thought he had the ability. CJI2d 17.1.

The repeated threats of violence, the agitated nature of defendant, the glass object in defendant's hand, and the ensuing altercation all provide ample evidence on which a reasonable jury could conclude that the prosecution had proven beyond a reasonable doubt each of the elements of assault and assault on a corrections officer. Not only did defendant intend to assault the corrections officers, but when he grabbed the glass bottle, he equipped himself with the means with which to do so. The continued threats of violence and yelling and screaming at the officers, after they informed defendant they were going to enter his cell, further support the conclusion that defendant intended to and did commit a violent or offensive touching on the deputies. Moreover, the officers involved in the incident wore uniforms, which adequately conveyed their employment status at the Muskegon County Jail. Thus, a reasonable jury could conclude that defendant committed the offenses.

Affirmed.

/s/ Richard Allen Griffin
/s/ Janet T. Neff
/s/ Christopher M. Murray